

COMMITTEE AMENDMENT FORM

DATE: 09/13/ 05

COMMITTEE CITY UTILITIES

PAGE NUM. (S) 1 & 3

ORDINANCE I. D. #05-O-1544

SECTION (S) 8

RESOLUTION I. D. #05-R-

PARA. CAPTION & 2ND
WHEREAS

- AMENDS THE LEGISLATION BY DELETING 2ND WHEREAS.
- REPLACE LANDRUM DRIVE SIDEWALK WITH LANDRUM DRIVE EXTENSION WHEREVER IT APPEARS IN THE LEGISLATION.

AMENDMENT DONE BY COUNCIL STAFF 9/13/05

BY CITY UTILITIES COMMITTEE

AUTHORIZING THE PURCHASE OF PERMANENT AND TEMPORARY CONSTRUCTION EASEMENTS AND THE NECESSARY RIGHTS-OF-WAY FROM VARIOUS PROPERTY OWNERS FOR THE COMPLETION OF THE METROPOLITAN PARKWAY STREETScape, PRYOR ROAD STREETScape, HOLLYWOOD ROAD STREETScape, LANDRUM DRIVE EXTENSION, MEMORIAL DRIVE SIDEWALK, CHESHIRE BRIDGE/LINDBERGH ROAD AND HOWELL MILL ROAD PROJECTS; TO AUTHORIZE THE MAYOR, OR HER DESIGNEE, TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS AND TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY PROPERTY INTERESTS UP TO AND INCLUDING CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE CITY ATTORNEY, OR HER DESIGNEE, TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY O.C.G.A SECTION 32-3-4; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION PROCEEDINGS; AND FOR OTHER PURPOSES.

WHEREAS, it is necessary to acquire permanent and temporary construction easements and necessary rights-of-way from various property owners for roadway improvements for the Metropolitan Parkway Streetscape, Pryor Road Streetscape, Hollywood Road Streetscape, Landrum Drive Extension, Memorial Drive Sidewalk, Cheshire Bridge/Lindbergh Road and Howell Mill Road Projects; and

WHEREAS, State Law, O.C.G.A. Section 32-3-4 authorizes the use of Declaration of Taking as a method of condemnation whenever a municipality desires to take private property for public road purposes or for any other public transportation purposes; and

WHEREAS, use of Declaration of Taking as a method of condemnation would expedite the acquisition of easement rights and possession of property interests necessary for the timely completion of these projects which involves road and transportation improvements; and

WHEREAS, state law requires a finding by a municipality that circumstances necessitate the use of Declaration of Taking before such method of condemnation can be used by a municipal government; and

WHEREAS, in order to complete the proposed projects in a timely fashion the requirements of Sections 2-1541(d) and 2-1545(d) of the Procurement and Real Estate Code which require further authorization of Council for acquisition of permanent and temporary easements and necessary rights-of-way described in this ordinance are waived.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA,

SECTION 1: That the Chief Procurement Officer or Consultant are hereby authorized to negotiate with the affected property owners to acquire temporary or permanent construction easements and the necessary rights-of-way, and other related property interests necessary to complete construction of the Metropolitan Parkway Streetscape, Pryor Road Streetscape, Hollywood Road Streetscape, Landrum Drive Extension, Memorial Drive Sidewalk, Cheshire Bridge/Lindbergh Road and Howell Mill Road Projects.

SECTION 2: That the use of Declaration of Taking as a method of condemnation be utilized to expedite the acquisition of easement rights and possession of property interests necessary for the timely completion of these projects which involves road and transportation improvements.

SECTION 3: That in order to complete the proposed projects in a timely fashion the requirements of Sections 2-1541(d) and 2-1545(d) of the Procurement and Real Estate Code which require further authorization of Council for acquisition of permanent and temporary easements and the necessary rights-of-way described in this ordinance are waived.

SECTION 4: That the Chief Procurement Officer or consultant are hereby authorized to obtain title reports, appraisal reports, land surveys, legal descriptions, environmental reports and to negotiate with the affected property owners; where the Chief Procurement Officer's negotiations with the owners are unsuccessful, to institute necessary legal action through condemnation or any other method provided by law to acquire the property interests needed to complete the Metropolitan Parkway Streetscape, Pryor Road Streetscape, Hollywood Road Streetscape, Landrum Drive Extension, Memorial Drive Sidewalk, Cheshire Bridge/Lindbergh Road and Howell Mill Road Projects.

SECTION 5: That the City's outside consultants and their sub consultants are authorized to settle those acquisitions of property at an amount not to exceed ten percent (10%) above the estimated just compensation. That the Chief Procurement Officer is authorized to administratively settle, without further authorization of City Council, those acquisitions which exceed these limitations which the City's consultants cannot otherwise acquire. However, in no event shall the Chief Procurement Officer's authority to administratively negotiate or settle such acquisitions without Council authorization exceed twenty percent (20%) above the estimated just compensation of affected properties.

SECTION 6: That the City Attorney is authorized to engage the services of outside counsel, where necessary, to handle condemnations proceedings, without further authorization from City Council. The provisions of Section 2-1542 requiring further authorization for condemnations are hereby waived.

SECTION 7: That the City Attorney, or her designee, is authorized to monitor and supervise the closing transactions with affected property owners in connection with these projects, with the assistance of the consultants and its sub-consultants.

SECTION 8: That all costs associated with this ordinance shall be charged to and paid from Fund, Account and Center Numbers: 1C45 (2001 Quality of Life Bond Fund) 574001 (Fac. other Than Buildings) Y63F054692BG (Metropolitan Pkwy. Streetscape), 1C45 (2001 Quality of Life Bond Fund) 574001 (Fac. other Than Buildings) Y63F035892BG (Pryor Road Streetscape), 1C45 (2001 Quality of Life Bond Fund) 574001 (Fac. other Than Buildings) Y63F054492BG (Hollywood Road/Perry Blvd. Streetscape), 1C50 (2004 Quality of Life Bond Fund) 574001 (Fac. other Than Buildings) Y63F058992BH (Streetscape Projects, District 9), 1C45 (2001 Quality of Life Bond Fund) 574001 (Fac. other Than Buildings) M23F053592BG (Sidewalk Improvements, District 11), 1C50 (2004 Quality of Life Bond Fund) 574001 (Fac. other Than Buildings) M65F052992BH (Sidewalk Improvements, District 5), 1C33 (1994 Referendum G.O. Bond Fund 574001 (Fac. other Than Buildings) M22F013992BA (Howell Mill Road Widening); 1C28 (General Gov't. Capital Outlay Fund) 574001 (Fac. other Than Buildings) M23F01719985 (Lindbergh/Lavista/Cheshire Bridge Improvements).

BY: CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING THE PURCHASE OF PERMANENT AND TEMPORARY CONSTRUCTION EASEMENTS AND THE NECESSARY RIGHTS-OF-WAY FROM VARIOUS PROPERTY OWNERS FOR THE COMPLETION OF THE METROPOLITAN PARKWAY STREETScape, PRYOR ROAD STREETScape, HOLLYWOOD ROAD STREETScape, LANDRUM DRIVE SIDEWALK, MEMORIAL DRIVE SIDEWALK, CHESHIRE BRIDGE/LINDBERGH ROAD AND HOWELL MILL ROAD PROJECTS; TO AUTHORIZE THE MAYOR, OR HER DESIGNEE, TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS AND TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY PROPERTY INTERESTS UP TO AND INCLUDING CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE CITY ATTORNEY, OR HER DESIGNEE, TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY O.C.G.A SECTION 32-3-4; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION PROCEEDINGS; AND FOR OTHER PURPOSES.

WHEREAS, it is necessary to acquire permanent and temporary construction easements and necessary rights-of-way from various property owners for roadway improvements for the Metropolitan Parkway Streetscape, Pryor Road Streetscape, Hollywood Road Streetscape, Landrum Drive Sidewalk, Memorial Drive Sidewalk, Cheshire Bridge/Lindbergh Road and Howell Mill Road Projects; and

WHEREAS, by the same legislation the Georgia Department of Transportation agreed to participate in the construction cost of the specified projects; and

WHEREAS, state law, O.C.G.A. Section 32-3-4 authorizes the use of declaration of taking as a method of condemnation whenever a municipality desires to take private property for public road purposes or for any other public transportation purposes; and

WHEREAS, use of declaration of taking as a method of condemnation would expedite the acquisition of easement rights and possession of property interests necessary for the timely completion of these projects which involves road and transportation improvements; and

WHEREAS, state law requires a finding by a municipality that circumstances necessitate the use of declaration of taking before such method of condemnation can be used by a municipal government; and

WHEREAS, in order to complete the proposed projects in a timely fashion the requirements of sections 2-1541(d) and 2-1545(d) of the Procurement and Real Estate Code which require further authorization of Council for acquisition of permanent and temporary easements and necessary rights-of-way described in this ordinance are waived.

THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA,

SECTION 1: That the Chief Procurement Officer or Consultant are hereby authorized to negotiate with the affected property owners to acquire temporary or permanent construction easements and the necessary rights-of-way, and other related property interests necessary to complete construction of the Metropolitan Parkway Streetscape,

Pryor Road Streetscape, Hollywood Road Streetscape, Landrum Drive Sidewalk, Memorial Drive Sidewalk, Cheshire Bridge/Lindbergh Road and Howell Mill Road Projects.

SECTION 2: That the use of declaration of taking as a method of condemnation be utilized to expedite the acquisition of easement rights and possession of property interests necessary for the timely completion of these projects which involves road and transportation improvements.

SECTION 3: That in order to complete the proposed projects in a timely fashion the requirements of sections 2-1541(d) and 2-1545(d) of the Procurement and Real Estate Code which require further authorization of Council for acquisition of permanent and temporary easements and the necessary rights-of-way described in this ordinance are waived.

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SECTION 7: That the City Attorney, or her designee, is authorized to monitor and supervise the closing transactions with affected property owners in connection with these projects, with the assistance of the consultants and its subconsultants.

SECTION 8: That all costs associated with this ordinance will be charged to and paid from fund account and center numbers: 1C45 (2001 Quality of Life Bond Fund) 574001 (Fac. Other Than Buildings) Y63F054692BG (Metropolitan Pkwy Streetscape), 1C45 (2001 Quality of Life Bond Fund) 574001 (Fac. Other Than Buildings) Y63F035892BG (Pryor Road Streetscape), 1C45 (2001 Quality of Life Bond Fund) 574001 (Fac. Other Than Buildings) Y63F054492BG (Hollywood Rd/Perry Blvd Streetscape), 1C50 (2004 Quality of Life Bond Fund) 574001 (Fac. Other Than Buildings) Y63F058992BH (Streetscape Projects, District 9), 1C45 (2001 Quality of Life Bond Fund) 574001 (Fac. Other Than Buildings) M23F053592BG (Sidewalk Improvements, District 11), 1C50 (2004 Quality of Life Bond Fund) 574001 (Fac. Other Than Buildings) M65F052992BH (Sidewalk Improvements, District 5), 1C33 (1994 Referendum G.O. Bond Fund 574001

(Fac. Other Than Buildings) M22F013992BA (Howell Mill Road Widening); 1C28
(General Gov't Capital Outlay Fund) 574001 (Fac. Other Than Buildings)
M23F01719985 (Lindbergh/Lavista/Cheshire Bridge Improvements).

DEPT. OF PUBLIC WORKS
PROJECT DEVELOPMENT &
IMPLEMENTATION

2005 AUG -8 AM 8:37



SHIRLEY FRANKLIN
Mayor

CITY OF ATLANTA

DEPARTMENT OF LAW
SUITE 4100 • CITY HALL TOWER
68 MITCHELL STREET, S.W., ATLANTA, GEORGIA 30303-3520
TELEPHONE: (404) 330-6400

LINDA K. DISANTIS
City Attorney

MEMORANDUM

TO: Dawn Riley; Marc Goncher; Katrina Taylor

FROM: Bill Castings *BC*
Senior Assistant City Attorney

DATE: August 1, 2005

This memo is in response from a request by Stacey Abrams to explain the need to waive Section 2-1542 of the Code as it pertains to condemnations in Ordinance 05-0-1222. Marc Goncher has informed me that this issue came up in the CUC meeting. This provision is commonly waived when the City is involved in a project where potentially there are several parcels that need to be acquired by condemnation. In a project like this, it is crucial that all of the parcels be acquired in a timely matter so construction work will not be delayed.

The waiver of the Code provision does not in any way effect the rights that property owners would have in regards to the condemnation process. If the City had to pass separate legislation for each condemnation action, it would needlessly delay the project for many months. The Law Department needs to assure concerned parties that no one's rights are harmed by this Ordinance, and the wavier of this Code section is a common insertion in projects of this sort.

Legislative White Paper

Committee of Purview: CITY UTILITIES COMMITTEE

Caption

AN ORDINANCE AUTHORIZING THE PURCHASE OF PERMANENT AND TEMPORARY CONSTRUCTION EASEMENTS AND THE NECESSARY RIGHTS-OF-WAY FROM VARIOUS PROPERTY OWNERS FOR THE COMPLETION OF THE METROPOLITAN PARKWAY STREETScape, PRYOR ROAD STREETScape, HOLLYWOOD ROAD STREETScape, LANDRUM DRIVE SIDEWALK, MEMORIAL DRIVE SIDEWALK, CHESHIRE BRIDGE/LINDBERGH ROAD AND HOWELL MILL ROAD PROJECTS; TO AUTHORIZE THE MAYOR, OR HER DESIGNEE, TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS AND TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY PROPERTY INTERESTS UP TO AND INCLUDING CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE CITY ATTORNEY, OR HER DESIGNEE, TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY O.C.G.A SECTION 32-3-4; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION PROCEEDINGS; AND FOR OTHER PURPOSES.

Council Meeting Date: September 19, 2005

Legislation Title: Construction Easements

Requesting Dept.: **Public Works**

Contract Type: Ordinance

Source Selection: Not Applicable

Bids/Proposals Due: None

Invitations Issued: None

Number of Bids/ None

Proposals Received: None

Bidders/Proponents: None

Justification Statement: Authorization to purchase permanent and temporary construction easements, required rights-of-way and, if necessary, the authorization to institute condemnation proceedings pursuant to the declaration of taking method authorized by O.C.G.A Section 32-3-4 to complete various roadway projects.

Background:

Fund Account Center: (1C45) Y63F054692BG, Y63F035892BG, Y63F054492BG
M23F053592BG (1C50) Y63F058992BH, M65F52992BH (1C33)
M22F013992BA, (1C28) M23F01719985.

Source of Funds: Quality of Life Bond Fund, 1994 Referendum G.O Bond Fund,
General Gov't Capital Outlay Fund

Fiscal Impact:

Term of Contract: Not Applicable

Method of Cost Recovery: Not Applicable

Approvals:

DOF:

DOL:

Prepared By: Dawn Riley

Contact Number: 404-330-6581

TRANSMITTAL FORM FOR LEGISLATION

To: Greg Pridgeon, Office of the Mayor

From: Department of Public Works
Wynn

Contact (Names): Sandra Jennings/Michele

Ext. 6739

Commissioner's Signature:


DAVID SCOTT

Manager's Signature:



Committee(s) of Purview: City Utilities

Committee Deadline: 8/15/05

Committee Meeting Date(s): 8/30, 9/13

City Council Meeting Date: 9/19/05


CAPTION: AN ORDINANCE AUTHORIZING THE PURCHASE OF PERMANENT AND TEMPORARY CONSTRUCTION EASEMENTS AND THE NECESSARY RIGHTS-OF-WAY FROM VARIOUS PROPERTY OWNERS FOR THE COMPLETION OF THE METROPOLITAN PARKWAY STREETScape, PRYOR ROAD STREETScape, HOLLYWOOD ROAD STREETScape, LANDRUM DRIVE SIDEWALK, MEMORIAL DRIVE SIDEWALK, CHESHIRE BRIDGE/LINDBERGH ROAD AND HOWELL MILL ROAD PROJECTS; TO AUTHORIZE THE MAYOR, OR HER DESIGNEE, TO NEGOTIATE WITH AFFECTED PROPERTY OWNERS AND TO USE ALL MEANS NECESSARY TO ACQUIRE NECESSARY PROPERTY INTERESTS UP TO AND INCLUDING CONDEMNATION PROCEEDINGS; TO AUTHORIZE THE CITY ATTORNEY, OR HER DESIGNEE, TO INSTITUTE CONDEMNATION PROCEEDINGS PURSUANT TO THE DECLARATION OF TAKING METHOD AUTHORIZED BY O.C.G.A SECTION 32-3-4; TO AUTHORIZE THE CITY ATTORNEY TO USE THE SERVICES OF OUTSIDE COUNSEL, WHERE NECESSARY, TO HANDLE CONDEMNATION PROCEEDINGS; AND FOR OTHER PURPOSES.

BACKGROUND/PURPOSE/DISCUSSION: Authorizing condemnation proceedings, if necessary, against property owners affecting the completion of the Metropolitan Parkway Streetscape, Pryor Road Streetscape, Hollywood Road Streetscape, Landrum Drive Sidewalk, Memorial Drive Sidewalk, Cheshire Bridge/Lindbergh Road and Howell Mill Road Projects. (Impacted Districts: 8, 9, 11, 12)


FINANCIAL IMPACT (if any): Quality of Life (1C45/1C50) Bond Funds, 1994 Referendum G.O. Bond (1C33) Fund, General Government Capital Outlay (1C28) Fund.

Mayor's Staff Only

Received by Mayor's Office:

8-15-05 
(Date)

Reviewed by:


(Initials) (Date)

Submitted to Council:

(Date)

Action by Committee: Approved _____ Adversed _____ Held _____ Amended _____

Substitute _____ Referred _____ Other _____